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COMMITTEES
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United States Senate

WASHINGTON, DC 20510-3403

December 3, 2004

The Honorable John Snow
Secretary
Department of the Treasury
1500 Pennsylvania Ave., N.W.
Washington, DC 20220

Dear Mr. Secretary:

I write to express my serious concern about actions by your Department that have cut off exports of agricultural products to Cuba, harming agricultural producers in North Dakota.

As you well know, we are on course to set yet another record trade deficit this year, with recent estimates suggesting that the annual deficit could be over $600 billion. Historically, agriculture has been one of the very few bright spots in the trade picture, recording surpluses year after year. However, just a few weeks ago, the Department of Agriculture projected that next year the agriculture trade surplus will fall to zero.

These are very disturbing developments, and they represent particularly bad news for America's farmers and ranchers. Unfortunately, recent actions of your Office of Foreign Assets Control (OFAC) threaten to make a bad situation worse.

In 2000, the Congress, with my strong support, authorized cash (but not credit) sales of agricultural goods to Cuba as part of the Trade Sanctions Reform and Export Enhancement Act. Since then, U.S. agricultural exporters have strictly complied with the law by retaining title and control of goods until payment is received. And agriculture exports to Cuba have grown to an estimated $400 million this year, making Cuba our 21st largest agricultural export market. Cuba has been a particularly important growth market for North Dakota products such as wheat, dry peas and lentils.

This progress is now threatened by an unanticipated, unexplained and unnecessary decision by OFAC to block the release of Cuban sales proceeds to U.S. exporters. Apparently, OFAC is considering a radical reinterpretation of the law to require that cash be received before goods can leave U.S. ports. Requiring such pre-payment would be an onerous departure from the normal international trade practice of collecting payment after goods arrive in the importing country but before they are released to the custody of the purchaser. Moreover, it would further harm the competitive position of U.S. products compared to those readily available from other suppliers.

In the case of Cuba, this requirement would also mean that our exports would become Cuban-owned goods while still sitting in a U.S. port. Because Cuban goods in the United States are subject to court ordered seizures, this would subject our agricultural exporters to extraordinary legal risks and, most likely, close this promising export market. Such a result would totally reverse the intent of Congress in opening the Cuban market to agricultural exports in the first place.

Mr. Secretary, I urge you to look into this matter and ensure that agricultural exports to Cuba can continue to benefit farmers in North Dakota and across the country.

Sincerely,

Kent Conrad

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United State Senate

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